

EXHIBIT 1

JACOB S. GUNTER (12732), for:
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HLP File No. 34575

Attorneys for Plaintiff

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY
STATE OF UTAH

LIASIA TE POMEI, Plaintiff, vs. OWNERS INSURANCE COMPANY, Defendant.	FIRST AMENDED SUMMONS Case No. 210401290 Judge Thomas Low
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THE STATE OF UTAH TO THE ABOVE-NAMED DEFENDANT:

Owners Insurance Company
c/o Peter Barlow/Attorney

You are summoned and required to answer the attached First Amended Complaint which has been filed with the court. Within 21 days after service of this summons, you must file your written answer with the clerk of the court at 137 North Freedom Blvd., Provo, UT 84601, and you must mail or deliver a copy to plaintiff's attorneys at the address listed above. If you fail to do so, judgment by default may be taken against you for the relief demanded in the First Amended Complaint.

DATED this 30th day of September, 2021.

/s/ Jacob S. Gunter

JACOB S. GUNTER, for:
HOWARD, LEWIS & PETERSEN
Attorneys for Plaintiff

**If you do not respond to this document
within applicable time limits, judgment
could be entered against you as requested.**

JACOB S. GUNTER (12732), and
TC TAYLOR (16171) for:
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Our File No. 34575-1

Attorneys for Plaintiff

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY
STATE OF UTAH

LIASIA TE POME,EE, <i>Plaintiff,</i> vs. OWNERS INSURANCE COMPANY, <i>Defendant.</i>	FIRST AMENDED COMPLAINT Case No. 210401290 Judge Thomas Low Tier III
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Plaintiff complains against Defendant as follows:

JURISDICTION AND VENUE

1. This is a Tier III case under the Utah Rules of Civil Procedure.
2. Mr. Pomee is a resident of Utah County, State of Utah.
3. Plaintiff and Daniel Forsyth were involved in an automobile accident which occurred on December 30, 2020 in Utah County, State of Utah. Daniel Forsyth was the negligent driver of the vehicle which collided with Mr. Pomee and caused Plaintiff to incur

economic and non-economic damages as result of the accident and which gives rise to this Complaint being filed.

4. Upon information and belief, Plaintiff's employer at the time of this collision, Sunbow Distribution, Inc. does business in Utah County.
5. Owners Insurance Company is a legal Utah entity that is believed to be doing business in Utah County and is the insurer of the vehicle Mr. Pomee was driving for Sunbow Distribution, Inc.
6. The Court has jurisdiction over the parties in this action.
7. Venue is properly placed in the Fourth Judicial District Court in Utah County pursuant to Utah Code Ann. § 78B-3-307(3) (2021).

GENERAL ALLEGATIONS

8. Around 10:06 a.m. on December 30, 2020, Mr. Pomee was traveling southbound on 300 North Main Street in Pleasant Grove, Utah.
9. On the same day and time, Mr. Pomee was employed by Sunbow Distributing, Inc., and working in the course and scope of his employment.
10. On the same day and time, Mr. Forsyth was traveling northbound on 300 North Main Street in Pleasant Grove, Utah.
11. While he was driving northbound, Mr. Forsyth blacked out.
12. Mr. Forsyth's vehicle came through the middle of the intersection of 300 North and Main Street and into the lane in which Mr. Pomee was traveling southbound.

13. Mr. Forsyth's vehicle collided with Mr. Pomee's vehicle.
14. Mr. Pomee was physically injured due to the actions and the driving of Mr. Forsyth.
15. At the time of the accident, Plaintiff was driving a vehicle owned by Plaintiff's employer, Sunbow Distributing, Inc.
16. Sunbow Distributing, Inc. had underinsured motorist (UIM) coverage with Defendant, which included unknown policy limits.
17. Defendant refused to disclose the policy limits.
18. At the time and place of this collision, Mr. Pomee was a permissive driver of his employer's vehicle.
19. At the time and place of this collision, Mr. Pomee was a third party beneficiary insured under the underinsured motorist ("UIM") coverage obtained by Defendant.
20. Upon information and belief, Mr. Pomee's employer's UIM policy of insurance, issued by Defendant, was in full effect on December 30, 2020, the subject date of the car collision.
21. Mr. Pomee has sustained economic and non-economic damages in the collision in excess of the other driver's bodily injury liability insurance policy.
22. Mr. Pomee has exhausted the liability insurance coverage of Mr. Forsyth's insurance carrier.
23. Mr. Pomee submitted a UIM demand to Defendant on or about July 1, 2021.

24. Defendant has failed to comply with its obligations under the policy and pay out a reasonable settlement to Plaintiff for his compensation, thus breaching their contract of insurance.

FIRST CAUSE OF ACTION
(Breach of Contract Third Party Beneficiary)

25. Mr. Pomee hereby incorporates by reference all prior allegations as though set forth affirmatively herein.

26. Mr. Pomee was at all times relevant hereto a covered person under Defendant's UIM policy within the meaning of both the policy and Utah Code Ann. § 31A-22-305.3 (2021).

27. Mr. Pomee was injured by the operation of an underinsured motor vehicle as that term is defined by Utah Code Ann. § 31A-22-305.3 (2020) in that he sustained economic and non-economic damages in excess of Mr. Forsyth's bodily injury liability policy limits.

28. On December 30, 2020, Sunbow Distributing, Inc., had an effective UIM policy with unknown policy limits.

29. Mr. Pomee has demanded that Defendant pay UIM benefits.

30. Defendant has refused to pay UIM benefits to which Plaintiff is entitled pursuant to the plain terms of the policy and applicable Utah law.

31. Such refusal constitutes a material breach of contract of insurance between Mr. Pomee and Defendant.

32. Mr. Pomee has been damaged by Defendant's refusal to pay benefits to which he is contractually entitled.

PRAYER FOR RELIEF

WHEREFORE, Mr. Pomee prays for judgment against Defendant as follows:

1. That this Court find the Defendant breached the terms of its contractual UIM policy of insurance with Plaintiff.
2. That this Court enter a Judgment in Plaintiff's favor for all UIM benefits due and owing him.
3. Pre-judgment interest on all UIM benefits beginning from the inception of the loss and continuing until those amounts are paid in full at the rate of 10% per annum pursuant to Utah Code Ann. § 15-1-1.
4. For any other relief the Court deems just and equitable.

DATED this 30th day of September, 2021.

/s/ Jacob S. Gunter

JACOB S. GUNTER, for:
HOWARD, LEWIS & PETERSEN, P.C.
Attorneys for Plaintiff
